

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Rules and Regulations Implementing)	
Minimum Customer Account Record)	CG Docket No. 02-386
Exchange Obligations on All Local and)	
Interexchange Carriers)	

TO: The Commission

COMMENTS OF TDS TELECOMMUNICATIONS CORP.

Gerard J. Waldron
Mary Newcomer Williams
Matthew S. DelNero
COVINGTON & BURLING
1201 Pennsylvania Avenue, N.W.
Washington, D.C. 20004
Tel.: 202-662-6000
Fax: 202-662-6291

Counsel for TDS Telecommunications Corp.

June 3, 2004

SUMMARY

Like the vast majority of local exchange carriers (LECs), the 112 small and rural incumbent LEC subsidiaries of TDS Telecommunications Corp. (TDS Telecom) participate in the voluntary, automated exchange of Customer Account Record Exchange (CARE) information with interexchange carriers (IXCs) and other LECs. In TDS Telecom's experience, this process – which relies on a flexible, common data format prescribed by the industry consensus-based Alliance for Telecommunications Industry Solutions (ATIS) Order and Billing Forum (OBF) – effectively meets the needs of *all* carriers. Replacing the existing process with mandatory minimum CARE standards dictated by the Commission would offer few benefits to carriers or consumers. At the same time, it would impose undue economic and technical burdens on LECs and stifle their ability to update CARE processes appropriately and efficiently as the telecommunications market evolves.

Mandatory CARE standards would be particularly onerous for small and rural LECs. Under the current voluntary CARE system, the industry consensus-based ATIS OBF maintains a broad and evolving list of useful codes, and carriers are free to implement only those codes that are appropriate and necessary to their circumstances. Mandating minimum CARE standards would eliminate the flexibility afforded by this system and place new and substantial compliance burdens on rural carriers. Rural subscribers would suffer from the diversion of LEC resources to new CARE compliance measures in lieu of other important priorities such as rural broadband deployment. Subscribers could also be harmed by anticompetitive conduct that the proposed minimum CARE standards could facilitate. For these reasons, TDS Telecom urges that the Commission not adopt the proposed mandatory minimum CARE standards.

TABLE OF CONTENTS

	<u>Page</u>
BACKGROUND	2
DISCUSSION	3
I. GOVERNMENT-MANDATED MINIMUM CARE STANDARDS ARE UNNECESSARY	4
A. The Established Industry Process Meets Carriers' Needs	4
B. LECs Have Economic Incentives to Participate in the Effective Exchange of CARE Information.....	5
C. The OBF Provides an Effective Forum through which Carriers can Develop Standards and Procedures for the Exchange of Necessary Information	6
II. THE IMPOSITION OF MINIMUM CARE STANDARDS WOULD HARM BOTH CARRIERS AND CONSUMERS	8
A. Mandatory Minimum CARE Standards Would Unduly Burden Small and Rural LECs and Harm Their Subscribers	8
B. Government-Imposed CARE Standards Would Stifle the Flexibility and Innovation That Have Characterized the CARE System for Two Decades	10
III. THE PROPOSED MANDATORY CARE STANDARDS COULD PROMPT ANTICOMPETITIVE CONDUCT BY IXC's	11
CONCLUSION	13

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Rules and Regulations Implementing)	
Minimum Customer Account Record)	CG Docket No. 02-386
Exchange Obligations on All Local and)	
Interexchange Carriers)	

TO: The Commission

COMMENTS OF TDS TELECOMMUNICATIONS CORP.

In the experience of TDS Telecommunications Corp. (TDS Telecom), the existing Customer Account Record Exchange (CARE) process provides an effective framework for the voluntary exchange of necessary information between local exchange carriers (LECs) and interexchange carriers (IXCs). Despite this success, a few IXCs with limited concerns about the exchange of particular categories of CARE data have asked the Commission to replace the voluntary, consensus-based approach with rigid regulatory requirements. The proposed mandatory exchange of specified categories of CARE information would offer few benefits to carriers or consumers. At the same time, it would impose unnecessary burdens on carriers and stifle their ability to update CARE processes appropriately and efficiently as the telecommunications market evolves. Accordingly, TDS Telecom urges the Commission not to supplant the existing process with the regulatory regime proposed in the pending Notice of Proposed Rulemaking in this proceeding.¹

¹ Notice of Proposed Rulemaking, *Rules and Regulations Implementing Minimum Customer Account Record Exchange Obligations on All Local and Interexchange Carriers*, CG Docket No. 02-386, FCC 04-50 (rel. Mar. 25, 2004) (*NPRM*).

BACKGROUND

TDS Telecom is a holding company whose 112 incumbent local exchange carrier (ILEC) subsidiaries provide telecommunications services to over 600,000 residential and business customers in 28 states. The company has over 35 years of experience providing a variety of telecommunications services to small and rural communities.

TDS Telecom's successful business model is founded on the company's commitment to high-quality, locally-based customer service. In respected third-party surveys, subscribers rate TDS Telecom at levels higher than customers of almost every other telephone company in *all* dimensions, from overall satisfaction to friendliness of employees to reliability of service. Providing such a high level of locally-based service to its customers requires TDS Telecom to make efficient use of its limited resources. The company's disciplined management team vigilantly avoids unnecessary procedures that will add to the cost of providing services without yielding significant benefit to customers. As a result, rates stay competitive and TDS Telecom is able to maintain its strong local presence while continuing to offer its customers high-quality and advanced telecommunications products and services.

As part of TDS Telecom's commitment to quality service, its ILEC subsidiaries have participated actively in the voluntary exchange of CARE data with requesting IXC's for nearly twenty years. Indeed, for eighty-five percent of TDS Telecom's ILEC access lines (numbering in excess of 650,000), TDS Telecom provides automated CARE data through direct contractual agreements with requesting carriers. In providing this information, TDS Telecom relies on the common data format prescribed by the Alliance for Telecommunications Industry

Solutions (ATIS) Ordering and Billing Forum (OBF).² The company's CARE agreements specify that TDS Telecom and the IXC will follow the same ATIS OBF Version³ so that each carrier provides and receives the same categories of information. Moreover, to ensure that all carrier questions and concerns are resolved expeditiously, TDS Telecom provides a single point of contact to each carrier with whom it has entered into a CARE agreement. Through this point of contact, the carrier can receive information and instruction about TDS Telecom's automated CARE process and can address any questions or concerns about the exchange of CARE information. As a result, TDS Telecom's CARE system is well-regarded by its IXC customers.

TDS Telecom also accommodates those few IXCs that opt not to work within the automated process and common OBF language. All of TDS Telecom's business offices have procedures for exchanging CARE information manually by facsimile with these carriers that have elected not to establish automated CARE agreements. Although this manual process may be less reliable than TDS Telecom's automated CARE system, it apparently meets the needs of those carriers that choose to employ it.

DISCUSSION

The voluntary CARE process currently followed by the industry is working well. Carriers have strong incentives to participate in the voluntary exchange of CARE information, and the few specific concerns identified by the petitioners in this proceeding can be resolved through the ATIS OBF. Promulgating mandatory CARE requirements dictated by the

² ATIS is a technical planning and standards development organization that seeks to deploy and promote technical and operational standards for communications technologies using a pragmatic, flexible, and open approach. It sponsors the OBF, through which representatives of all sectors of the telecommunications industry identify, discuss, and resolve national issues affecting ordering, billing, provisioning and exchange of information about access services, other connectivity, and related matters.

³ TDS Telecom currently uses Version 2.1.1.0 of the ATIS OBF CARE documentation.

Commission would offer few benefits to carriers and consumers. Instead, it would impose undue economic and technical burdens on local exchange carriers, undermine the flexibility and responsiveness of the industry's consensus-based approach, and harm local subscribers. The Commission should decline to interfere in the market to mandate CARE requirements.

I. GOVERNMENT-MANDATED MINIMUM CARE STANDARDS ARE UNNECESSARY

A. The Established Industry Process Meets Carriers' Needs

As noted above, TDS Telecom voluntarily participates in the automated exchange of CARE information in accordance with the standards established by the ATIS OBF. In TDS Telecom's experience, this fully meets the needs of the carriers with whom TDS Telecom exchanges telecommunications traffic. The OBF standards provide a common "language" through which TDS Telecom and other carriers communicate, which has enabled the development of an efficient, automated process for the consistent and accurate exchange of CARE records. In addition, the ATIS OBF standards offer flexibility that allows carriers to exchange necessary CARE information without investing scarce resources to develop mechanisms for exchanging information that is not essential to the effective and efficient provision of service to the carriers' customers. In short, TDS Telecom has seen no evidence of a need for regulators to play any role in dictating whether or how CARE information is exchanged between carriers.⁴

⁴ See *NPRM* ¶ 10 (requesting comment on whether billing issues complained of by certain IXC's are "sufficiently pervasive throughout the industry to warrant regulatory intervention at this time").

B. LECs Have Economic Incentives to Participate in the Effective Exchange of CARE Information

Despite the voluntary nature of its current CARE arrangements, TDS Telecom has been committed to maintaining the quality of that system. In addition to the company's overriding commitment to quality customer service, TDS Telecom has a strong economic incentive to maintain an effective CARE system. LECs like TDS Telecom are usually the primary telecommunications providers for their customers, and customers customarily look to their LEC to process and maintain information related to telecommunications services delivered to the home. If a customer provides new billing information or requests a change in interexchange service in a conversation with a TDS Telecom customer service representative, TDS Telecom is most likely to be held culpable – at least in the customer's mind – for any errors in processing that information. It is therefore in TDS Telecom's interest to ensure that CARE or similar information is exchanged with the appropriate parties to ensure the effective provision of service to its customers.

The evolving competitive marketplace has only heightened LECs' incentives to serve as reliable, efficient, and effective telecommunications providers for their subscribers. If an ILEC is deemed an irresponsible provider of service or custodian of customers' information, its customers may move to a competitive local exchange carrier (CLEC). Likewise, CLECs have a competitive incentive to develop efficient and effective processes by which customers can migrate to the new LEC and/or to a new long distance provider. Accordingly, there is no need for regulatory intervention in the market to promote the effective exchange of CARE information between ILECs, CLECs and IXC.

C. The OBF Provides an Effective Forum through which Carriers can Develop Standards and Procedures for the Exchange of Necessary Information

As noted above, the CARE standards established by the ATIS OBF generally meet carriers' needs in obtaining the necessary information to provide service to their customers. To the extent that any issues or problems arise with the current system, the neutral and expert ATIS OBF process is well-positioned to address and resolve those problems. There is thus no need to replace the industry consensus process with mandatory, government-managed regulatory standards.

When ATIS established OBF nearly twenty years ago to "identify, discuss and resolve national issues which affect ordering, billing provisioning, and the exchange of information about access service, other connectivity and related matters," it recognized the importance of flexibility and industry consensus to the success of that mission.⁵ To that end, OBF developed a procedural mechanism by which participants may introduce by resolution, discuss, and decide upon CARE standards. Any introduced resolution is considered by OBF participants in regular meetings that occur at least on a quarterly basis. When substantial agreement has been reached among groups of participants materially affected by the resolution, it is presented, by publication in the OBF meeting record, for "initial closure." The initial closure process provides all industry participants an opportunity to review and comment on the proposal. If no party submits new information or suggests any modifications during that stage, the resolution proceeds (no sooner than twenty-one days after notice of initial closure) to "final closure." Final closure provides notice that consensus has been reached and that all affected parties should implement the adopted resolution in good faith on a timely basis. As called for by

⁵ See Operating Principles of the OBF, *available at* www.atis.org/ATIS/CLC/OBF/Obfinfo.htm (last visited June 3, 2004).

the resolution, OBF's Subscription Committee then updates the bedrock CARE/Industry Support Interface (CARE/ISI) document.

Because of the diverse and sizable membership of ATIS, which includes participants from all segments of the industry, the CARE standards resulting from this process are widely accepted on a voluntary basis. However, the voluntary and flexible nature of the process allows carriers to decline to implement CARE codes or enhancements that are unnecessary or inappropriate to the particular circumstances of the carrier. As a result, carriers are able to manage the costs of maintaining the CARE system while ensuring that other carriers receive all the information necessary to provide efficient and effective service to their customers.

The voluntary process by which CARE standards are developed is sophisticated, efficient, and credible. OBF has the institutional knowledge and history to impartially gauge the necessary scope of changes to the CARE process as the industry's use of the information evolves. The broad participation in the ATIS OBF process ensures that the concerns of all affected parties are fully taken into account in making any changes to the established processes. And the voluntary nature of the process ensures that carriers have the freedom to implement only those CARE changes appropriate to their circumstances. Government intervention in this process would be, at best, a superfluous expenditure of the Commission's resources. Moreover, as described below, such involvement would likely harm the wireline industry in general and rural carriers in particular.

II. THE IMPOSITION OF MINIMUM CARE STANDARDS WOULD HARM BOTH CARRIERS AND CONSUMERS

A. Mandatory Minimum CARE Standards Would Unduly Burden Small and Rural LECs and Harm Their Subscribers

Because they lack the flexibility and suitability afforded by the OBF's voluntary standards, the proposed mandatory CARE rules would unduly burden small and rural LECs.

TDS Telecom already expends limited resources on the voluntary provision of automated CARE information to IXC's. Those expenditures would increase substantially if the proposed mandatory rules were adopted. These new burdens would be added to other demanding priorities the LECs currently face, including CALEA compliance and local number portability requirements.

The mandatory minimum CARE standards are based primarily on the joint proposal outlined by AT&T, Sprint, and MCI/WorldCom – a proposal that does not reflect the industry consensus on CARE standards embodied in OBF's CARE/ISI document.⁶ Unlike the OBF industry consensus process, the proposed rules do not take into consideration compliance burdens for small and rural LECs.

The proposed rule for adopting mandatory CARE requirements addressing wireline-to-wireless local number portability (LNP) provides a helpful illustration of the problems with the proposed rules. The Commission's NPRM proposes a CARE code that would add a "W" designation for local lines that are ported to wireless carriers.⁷ While maximizing convenience to IXC's, this "solution" would require LECs like TDS Telecom to invest significant

⁶ Petition for Rulemaking to Implement Mandatory Minimum Customer Account Record Exchange Obligations on All Local and Interexchange Carriers, filed by AT&T Corp., Sprint Corp., and WorldCom, Inc., CG Docket No. 02-386, 17 FCC Rcd 25535 (2002).

⁷ NPRM ¶ 13.

resources to overhaul the basic reporting format by which they deliver CARE information. The existing OBF CARE/ISI guidelines already provide a more equitable solution. The OBF CARE/ISI guidelines have been revised to suggest CARE/ICI Transaction Code Status Indicators (TSCIs) for notifying IXCs that a number has been ported. In line with the OBF CARE/ISI guidelines, TDS Telecom has already initiated a CARE project to incorporate porting information (without distinguishing between wireline-to-wireline and wireline-to-wireless porting) into the CARE information it exchanges with IXCs. This project will allow TDS Telecom, at considerably *less* expense than would be required under the proposed mandatory rule and well *before* a final rule could be promulgated, to implement a means for exchanging CARE information about ported numbers with affected IXCs. Although the porting information to be exchanged will be somewhat less detailed than that proposed in the *NPRM*, it should be sufficient to meet the needs of TDS Telecom's carrier customers. To the contrary, requiring TDS Telecom to implement the change proposed in the *NPRM*, *i.e.*, adding a "W" designation for numbers ported to a wireless carrier,⁸ would require TDS Telecom to expend significantly more resources on programming and system changes when few, if any, customers in TDS Telecom's small, rural subscriber base have actually ported their wireline numbers to wireless carriers.

By eliminating the flexibility afforded by the current system, the proposed mandatory CARE standards would require TDS Telecom and other LECs to invest limited resources in modifying CARE systems that to date have fully satisfied the needs of affected carriers. Overall, TDS Telecom estimates that it would need to invest at least 500 hours of

⁸ *Id.* ¶ 14.

information systems personnel time to make the technical changes called for by the proposed mandatory minimum CARE standards. Additional personnel training time would likely accrue as well. In addition, TDS Telecom's costs would also increase because IXCs would no longer have an incentive to share in those costs. That is, by providing an entitlement to specific CARE standards, the FCC would allow an IXC to shift completely to local carriers the cost of the IXC's decision not to establish direct business relationships with its customers.⁹ Ultimately, all the costs of complying with mandatory CARE requirements would be borne by TDS Telecom's subscribers or by the already strained universal service fund.

The expenditure of resources to overhaul TDS Telecom's CARE system to comply with new mandatory requirements would also harm rural subscribers and the public interest by diverting resources from other important priorities currently facing TDS Telecom and other small and rural LECs, such as rural broadband deployment.¹⁰ This reordering of priorities is simply unnecessary where, as here, the existing industry processes effectively serve carriers' needs.

B. Government-Imposed CARE Standards Would Stifle the Flexibility and Innovation That Have Characterized the CARE System for Two Decades

As competition in the wireline industry continues to evolve, the OBF process, which rewards good faith participation by all sectors of the industry and promotes widely-

⁹ Currently, an IXC that does not have a direct relationship with its customers must rely on LECs to provide CARE data, and appropriately shares a portion of the LECs' costs of maintaining and providing that information to the IXC. However, if the exchange of CARE data becomes a mandatory obligation for LECs, IXCs will have no incentive to share in that cost. This would exacerbate the financial impact on LECs of the mandatory CARE requirements.

¹⁰ See, e.g., Remarks of Chairman Michael K. Powell at the Kansas Rural Broadband and Telemedicine Summit, University of Kansas, Feb. 20, 2004, available at http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-244205A1.pdf ("The availability of broadband access is critical in attracting new businesses to rural areas and giving existing businesses the availability to compete with firms in more urban settings.").

accepted solutions, can be expected to continue to produce efficient and non-biased CARE standards. However, if mandatory CARE standards were adopted, carriers would have less incentive to participate in OBF to the same degree they have to date. As a result, all CARE procedures – both those developed voluntarily and imposed by regulation – would suffer.¹¹

Joint Petitioners are mistaken in claiming that if the Commission were to adopt mandatory minimum standards, carriers would “continue to work within the industry forum to develop and use established OBF guidelines appropriate for particular needs.”¹² An expectation that the Commission will dictate specific CARE standards would shift carrier focus away from participation in OBF and towards lobbying efforts at the Commission. This could significantly undermine the functionality, effectiveness and flexibility of the OBF processes.

III. THE PROPOSED MANDATORY CARE STANDARDS COULD PROMPT ANTICOMPETITIVE CONDUCT BY IXCs

In addition to producing inefficient CARE standards and harming smaller LECs, the proposed mandatory minimum standards would create an opportunity for IXCs to engage in anticompetitive conduct. At a time when the Commission is increasingly concerned about slamming and other anticompetitive practices,¹³ to open a new opportunity for such conduct would be counterproductive.

¹¹ *NPRM* ¶ 21 (asking whether “federally-mandated minimum CARE standards for all carriers [would] restrict the evolution of CARE standards”).

¹² *Ex Parte* Letter from Michael F. Del Casino, AT&T, to Marlene H. Dortch, Secretary, FCC, Sept. 19, 2002, Attachment at 6.

¹³ *See, e.g.*, Statement of Commissioner Michael K. Powell, Implementation of the Subscriber Carrier Selection Change Provisions of the Telecommunications Act of 1996, *Order*, CC Docket No. 94-129, 15 FCC Rcd 8158 (2000) (“Slamming insults the procompetitive, deregulatory framework of the Telecommunications Act of 1996 because it robs consumers of their ability to patronize their vendors of choice and, if not stemmed, requires increasing regulatory intervention to protect unwitting consumers.”).

The Commission has sought comment on Americatele's proposal that CARE standards include an obligation on LECs to provide a customer's PIC "with the identity of the new serving carrier whenever one of the LEC's customers changes local service providers."¹⁴ By obtaining this information contemporaneous to the customer's LEC change request, an IXC could alert its affiliated CLEC to initiate efforts to "win-back" or solicit the customer's local business¹⁵ (and/or long distance business if the subscriber has changed both its LEC and IXC). To minimize this potential effect, the Commission would need to make clear that any obligation to provide new LEC information to an IXC would apply only where the subscriber has not also selected a new IXC and wants to maintain a relationship with the prior IXC.

¹⁴ *NPRM* ¶ 6.

¹⁵ Although such activities would be limited to circumstances in which the IXC's customer has consented to the IXC's sharing the customer's proprietary network information ("CPNI"), the customer likely would be surprised that LEC-change information given to another LEC could end up in the hands of the customer's IXC's LEC affiliate.

CONCLUSION

The Commission should not disrupt the ATIS OBF process, which has successfully developed flexible and widely-accepted CARE standards through the participation and consensus of all sectors of the wireline industry. Mandatory minimum CARE standards would not merely duplicate OBF's efforts, but would impose substantial new costs on small and rural LECs and their subscribers, diminish the value of industry fora, and encourage anticompetitive conduct on the part of IXC's. Accordingly, TDS Telecom urges the Commission not to adopt the proposed mandatory minimum CARE standards.

Respectfully submitted,



Gerard J. Waldron
Mary Newcomer Williams
Matthew S. DelNero
COVINGTON & BURLING
1201 Pennsylvania Avenue, N.W.
Washington, D.C. 20004
Tel.: 202-662-6000
Fax: 202-662-6291

Counsel for TDS Telecommunications Corp.

June 3, 2004